

APPEAL NO. 030375
FILED MARCH 27, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on December 11, 2002. The hearing officer resolved the disputed issue by deciding that the respondent's (claimant) compensable injury of _____, extends to include the diagnoses of spondylolisthesis Grade II and degenerative disc disease at L5-S1. The appellant (self-insured) appealed and the claimant responded.

DECISION

Affirmed.

Conflicting evidence was presented on the disputed issue. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. In essence, this is an aggravation case. In Cooper v. St. Paul Fire & Marine Insurance Company, 985 S.W.2d 614 (Tex. App.-Amarillo 1999, no pet.), the court held that "to the extent that the aggravation of a prior injury caused damage or harm to the physical structure of the employee, it can reasonably be said that the resulting condition fell within the literal and plain meaning of 'injury' as defined by the 71st Legislature" and that "the legislature intended the meaning of 'injury' to include the aggravation of preexisting conditions or injuries." See *also* Peterson v. Continental Casualty Company, 997 S.W.2d 893 (Tex. App.-Houston [1st Dist.] 1999, no pet.), in which the court held that the aggravation of a preexisting condition is a compensable injury for purposes of the 1989 Act. Although there is conflicting evidence in this case, the claimant's testimony and the opinion of the claimant's surgeon support the hearing officer's decision. We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**MR
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Robert W. Potts
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Panel
Manager/Judge

Terri Kay Oliver
Appeals Judge